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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
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9 JEFFERY COONJOHN & HEIDI LOPEZ-
10 COONJOHN, Husband and Wife

11 Plaintiffs,

12 v.

13 OCWEN LOAN SERVICING, LLC, a
14 Delaware corporation, DEUTSCHE BANK
15 NATIONAL TRUST CO as Trustee for
16 MORGAN STANLEY ABS CAPITAL I INC.
17 TRUST 2003-HE2, a foreign Trust.

18 Defendants.

Case No.

**NOTICE OF REMOVAL OF ACTION
PURSUANT TO 28 U.S.C. § 1441 BASED
ON FEDERAL QUESTION AND
DIVERSITY JURISDICTION**

[28 U.S.C. § § 1331, 1441, 1332]

[Removal from Superior Court of
Washington in and for King County, Case
No. 13-2-413451-1 SEA]

19 **TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

20 **PLEASE TAKE NOTICE** that pursuant to 28 U.S.C. § 1441, Defendants DEUTSCHE
21 BANK NATIONAL TRUST COMPANY, as Trustee for MORGAN STANLEY ABS
22 CAPITAL I INC. TRUST 2003-HE2 MORTGAGE PASS-THROUGH CERTIFICATES,
23 SERIES 2003-HE2 and Ocwen Loan Servicing, LLC (collectively “Defendants”) hereby
24 remove the above-captioned action to this Court. The grounds for removal are as follows:
25

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27 Notice of Removal - 1

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7. This Notice of Removal is brought on behalf of Defendants DEUTSCHE BANK NATIONAL TRUST COMPANY, as Trustee for MORGAN STANLEY ABS CAPITAL I

1 INC. TRUST 2003-HE2 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2003-
2 HE2 and Ocwen Loan Servicing, LLC.

3 8. This action is removable to the instant Court because it originally could have
4 been filed in this Court pursuant to 28 U.S.C. §1441(a) and (b). The Complaint presents federal
5 question as conferred by 28 U.S.C. § 1331. Supplemental jurisdiction exists with respect to
6 other claims not subject to removal pursuant to 28 U.S.C. §§ 1367 and 1441(c). This action is
7 also removable on grounds of diversity jurisdiction pursuant to 28 U.S.C. § 1332.

8 **FEDERAL QUESTION**

9 9. Plaintiffs' Complaint is entitled, "Amended Complaint for Reformation of
10 Contract, Declaratory Relief and Damages" but Plaintiffs claim is premised upon alleged
11 violations of the Servicemembers' Civil Relief Act. (Compl., Paragraphs 4.2-4.3). Plaintiffs
12 allege that Defendants violated the Servicemembers Civil Relief Act 50 U.S.C. App. § 527 by
13 charging an interest rate in excess of 6% and charging penalties for late payments. (See
14 Compl., Paragraph 3.6). Plaintiffs seek to have the excess interest charged forgiven from the
15 loan and general and special damages. (See Compl., Page 6).

16 As such, Plaintiffs' claims turn on the application of federal law and this Court has
17 jurisdiction. (See *Smith v. Kansas City Title & Trust Co.*, 255 U.S. 180, 199 (1921) (stating,
18 "as a general rule, when it appears from the bill or statement of plaintiff that the right to relief
19 depends on the construction or application of the Constitution or laws of the United States, and
20 that such federal claim is not merely colorable, but rests upon a reasonable foundation, the
21 District Court has jurisdiction under Judicial Code, § 24, 28 U.S.C.A. § 41, giving jurisdiction
22 of causes of action arising under the Constitution or laws of the United States.")).
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1 **THE FEDERAL DISTRICT COURT ALSO HAS**
2 **SUPPLEMENTAL JURISDICTION OVER PLAINTIFFS' NON-FEDERAL CLAIMS**

3 10. In the event that this Court invokes its federal question jurisdiction, this Court
4 also has supplemental jurisdiction over Plaintiffs' state law claims. Supplemental jurisdiction
5 is proper where the relationship between the federal and state claims is such that they "form
6 part of the same case or controversy under Article III of the United States Constitution." 28
7 USC § 1367(a). Plaintiffs' state and federal claims are part of the same case or controversy
8 because all claims "arise from a common nucleus of operative facts" such that "considerations
9 of judicial economy, convenience and fairness to litigants" support a single adjudication.
10 *United Mine Workers of America v. Gibbs* 383 US 715, 726 (1966). All of the claims alleged
11 in Plaintiffs' Amended Complaint relate to alleged wrongful foreclosure of Plaintiffs' loan.
12 Therefore, all of the allegations in the Complaint relate to the same case or controversy because
13 they arise from a common nucleus of operative facts relating to the alleged wrongful
14 foreclosure of Plaintiffs' loan.

15 **FEDERAL COURT SUBJECT MATTER JURISDICTION**
16 **IS ALSO PROPER BASED ON DIVERSITY JURISDICTION**

17 11. This action is removed to the instant Court pursuant to the existence of diversity
18 jurisdiction between the parties. Diversity jurisdiction exists because this is a civil action
19 between citizens of different states and the matter in controversy exceeds the sum of
20 \$75,000.00. 28 U.S.C. § 1332.

21 12. Plaintiffs allege in their Complaint that they are residents of King County,
22 Washington. To show state citizenship for diversity purposes under federal common law a
23 party must (1) be a citizen of the United States, and (2) be domiciled in the state. [*Kantor v.*
24 *Wellesley Galleries, Ltd.*, 704 F.2d 1088, 1090 (9th Cir. 1983); see also *Kanter v. Warner-*

1 *Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001).] Therefore, Plaintiffs are citizens of
2 Washington.

3 13. Defendant Ocwen Loan Servicing, LLC is a Delaware limited liability company
4 with its principal place of business in West Palm Beach, Florida. Citizenship of a limited
5 liability company is determined by citizenship of its members. *Johnson v. Columbia*
6 *Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). At the present time and at the
7 time of commencement of this action, Defendant Ocwen Loan Servicing, LLC is a wholly-
8 owned subsidiary of Ocwen Financial Corporation and therefore takes the citizenship of its
9 only member, Ocwen Financial Corporation, which is incorporated in the State of Florida with
10 its principal place of business in Atlanta, Georgia. A copy of a printout from the official
11 website for the Florida Division of Corporations is attached hereto as **Exhibit “C.”**

12 14. Defendant DEUTSCHE BANK NATIONAL TRUST COMPANY, as Trustee
13 for MORGAN STANLEY ABS CAPITAL I INC. TRUST 2003-HE2 MORTGAGE PASS-
14 THROUGH CERTIFICATES, SERIES 2003-HE2 is a national banking association serving in
15 the capacity as trustee for registered holders of loans. A national bank’s citizenship is the state
16 designated in its articles of incorporation as the locus of its main office. *See Wachovia Bank v.*
17 *Schmidt*, 546 U.S. 303, 318 (2006). Deutsche Bank National Trust Company is a national bank
18 chartered and regulated by the Office of Comptroller of the Currency. Deutsche Bank
19 National Trust Company is listed on the Office of the Comptroller of the Currency’s website
20 both as a “national bank” and a “national trust bank” (denoting the trust powers granted to it by
21 the Comptroller of the Currency pursuant to 12 U.S.C. § 92a). The website indicates that
22 Deutsche Bank National Trust Company is located in Los Angeles, California. A true and
23 correct copy of the Comptroller of Currency printout for Deutsche Bank National Trust
24 Company is attached as **Exhibit “D.”** Thus, Deutsche Bank National Trust Company is a
25 citizen of the State of California.

1 **PLAINTIFFS' REQUESTS FOR RELIEF THAT ARE THE SUBJECT OF**
2 **THIS LITIGATION ARE GREATER THAN THE FEDERAL DIVERSITY**
3 **MINIMUM**

4 15. \$75,000.00 is the threshold amount associated with diversity jurisdiction. *See*
5 28 U.S.C. § 1332(a).

6 16. The Complaint seeks the forgiveness of \$200,000 of interest and penalties. (*See*
7 Complaint, ¶4.3 and 4.4).

8 17. The amount in controversy exceeds the \$75,000.00 threshold which governs this
9 inquiry.

10 **INTRADISTRICT ASSIGNMENT**

11 This case is being removed to the Seattle Division of the Western District of
12 Washington because the real property which is the subject of Plaintiffs' claim is located in
13 King County. Pursuant to Local Rule 3(d), the Seattle Division of the Western District of
14 Washington is appropriate for claims arising in King County, Washington.

15 **NOTICE**

16 18. Concurrently with the filing of this Notice, Defendants will file a copy of this
17 Notice of Removal with the Superior Court of Washington, for the County of King.

18 **CONCLUSION**

19 19. In light of the foregoing, this action is properly removed to this Court pursuant
20 to 28 U.S.C. Sections 1441 & 1332.

21 20. By this notice of removal, Defendants do not waive any objections they may
22 have as to service, jurisdiction, venue, or any other defenses or objections they may have to this
23 action. Defendants intend to convey no admission of the Complaint, law, or liability by virtue
24 of this notice, and they expressly reserve all defenses, motions and/or pleas.

25 21. Defendants request that the State Court Action be removed to this Court, that all

1 further proceedings in the state court be stayed, and that Defendants receive all additional relief
2 to which they are entitled.

3
4 DATED: December 30, 2014

HOUSER & ALLISON, APC

5
6 /s/ Cara Christensen

Cara Christensen

Attorneys for Defendants,

DEUTSCHE BANK NATIONAL TRUST

COMPANY, as Trustee for MORGAN

STANLEY ABS CAPITAL I INC.

TRUST 2003-HE2 MORTGAGE PASS-

THROUGH CERTIFICATES, SERIES

2003-HE2 and Ocwen Loan Servicing,

LLC

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DECLARATION OF SERVICE

The undersigned declares as follows:

On December 30, 2013, I served the foregoing document on the following individuals in the manner indicated:

Brent Nourse
James M. Waldon
Paramount Law Group, PLLC
1000 2nd Ave. Suite 3000
Seattle, WA 98104
Attorneys for Plaintiffs

VIA ECF
VIA ECF

/s/ Annicca Jones
Annicca Jones